

CITY OF HARRISONBURG, VA

STORMWATER MANAGEMENT/BMP FACILITIES MAINTENANCE AGREEMENT
For Pre-Existing Stormwater Management/ BMP Facilities Required to Satisfy
Development Regulations

THIS AGREEMENT, made and entered into this ____ day of _____, _____, by and between _____ hereinafter called the
(Insert Full Name of Owner)
"Landowner", and the City of Harrisonburg, a Virginia municipal corporation, hereinafter called the "City".

WITNESSETH:

WHEREAS, the Landowner is the owner of certain real property described as City of Harrisonburg Tax Map/Parcel _____ as recorded by deed in the land records of Rockingham County, Virginia, Deed Book/Page _____, hereinafter called the "Property";

and

WHEREAS, the Site Plan/Subdivision Plan known as, _____, prepared by _____ and dated _____, hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City, provides for Best Management Practices (BMPs) for detention and/or treatment of stormwater within the confines of the Property; and

WHEREAS, approximate locations of specific BMP facilities included on the Plan are shown on the attached

- ___ Copy of City-approved final subdivision plat, or
- ___ City-approved scaled exhibit drawing of Property; and

WHEREAS, the Landowner desires that existing on-site stormwater management/ BMP facilities serve to provide a credit against stormwater utility fees; and

WHEREAS, the City requires that on-site stormwater management/BMP facilities so credited be adequately maintained by the Landowner, its successors and assigns, including any homeowners association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. As a condition of this maintenance agreement, the Landowner has obtained a professional engineer to inspect the stormwater management/ BMP facility on the Property who has documented that the facility is in good working order.
2. The Landowner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management/BMP facilities. This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is defined as good working condition so that these facilities are performing their

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design functions. The required Inspection Report form(s) is(are) to be used to establish what good working condition is acceptable to the City.

3. The Landowner, its successors and assigns, shall inspect the stormwater management/BMP facility and submit an inspection report every five years by the method and date prescribed in the latest City's Design and Construction Standards Manual. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.

4. The Landowner, its successors and assigns, hereby grants permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management/BMP facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The City shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.

5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management/BMP facilities in good working condition acceptable to the City, the City may, after proper notice, enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. The City shall allow Landowner 90 days from the date of the notice of deficiency to make necessary repairs before taking this action; however, for large scale repair work the City may, on a case-by-case basis, allow the Landowner to present for consideration an Action Plan and schedule for repairs. In such cases the City may require a bond, letter of credit, cash escrow or other acceptable surety to guarantee the work. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.

6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. A maintenance schedule should follow those prescribed in the Plan or in the current Virginia Stormwater Management Handbook, along with any recommendations included in the City's Design and Construction Standards Manual, manufacturers' guidelines, etc. This schedule shall be followed by the landowner, its successors and assigns.

7. In the event the City, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors and assigns, shall reimburse the City within thirty (30) days of demand thereof for all actual costs incurred by the City hereunder. This shall include costs which exceed those obtained through a surety provided in association with an Action Plan as described in Item 5 above.

8. Additionally, if maintenance actions are not corrected by the Landowner within 90 days after notification is sent, the revocation of the stormwater utility fee credits will take place automatically .

9. If the City, after proper notice, takes action to correct deficiencies identified in the inspection report, the Landowner will not be eligible for stormwater utility fee credits for 5 years following the date of repair being completed. In no event shall the Landowner, its successors or

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assigns, be eligible for Stormwater Utility Fee credits if the City has not been reimbursed for its costs to correct any deficiency of the facilities.

10. Landowner, by execution of this Agreement, acknowledges that Landowner has reviewed with an Engineer the specifics of the Plan and understands the function and maintenance requirements of all BMPs provided for on the Plan. Landowner agrees to maintain a copy of the Plan through the duration of ownership, and to transfer that plan to the new owner upon relinquishing the property.

11. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management/BMP facilities fail to operate properly.

12. This Agreement shall be recorded among the land records in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, heirs and any other successors and assigns in interests, including any homeowners association.

13. This agreement shall be governed by the laws of the Commonwealth of Virginia.

14. Any disputes arising from or as a result of this Agreement shall be resolved in the Circuit Court of Rockingham County, Virginia.

15. If any provision of this Agreement is found to be illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision of this agreement.

Project Name: _____

WITNESS the following signatures and seals:

Company/Corporation/Partnership Name

By: _____

(Type Name)

(Type Title)

STATE OF _____

CITY/COUNTY OF _____

The foregoing Agreement was acknowledged before me this day ____ of _____,
____, by _____.

NOTARY PUBLIC

My Commission Expires: _____

My Commission No. is: _____

Project Name: _____

CITY OF HARRISONBURG, VIRGINIA

By: _____
Kurt D. Hodgen

Its: City Manager

STATE OF _____

CITY/COUNTY OF _____

The foregoing Agreement was acknowledged before me this day ____ of _____,
_____, by Kurt D. Hodgen, City Manager.

NOTARY PUBLIC

My Commission Expires: _____

My Commission No. is: _____

Approved as to Form:

City Attorney

Date

Project Name: _____